

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

AARON JUSTIN FULK,

Plaintiff,

v.

J. TURNER,

Defendant.

CASE NO. 2:24-CV-2174-RSM-DWC

REPORT AND RECOMMENDATION

Noting Date: March 17, 2025

The District Court has referred this prisoner civil rights action to United States Magistrate Judge David W. Christel. This matter is currently on review following Plaintiff Aaron Justin Fulk's failure to file an amended complaint curing his pleading's deficiencies by the court-imposed deadline. *See* Dkt. 7. Given Plaintiff's failure to timely amend and cure his pleading's deficiencies, the undersigned recommends this action be dismissed for failure to state a claim and failure to comply with a court order.

**I. DISCUSSION**

Plaintiff, proceeding *pro se* and *in forma pauperis*, initiated this action on December 12, 2024. Dkt. 1; Dkt. 5. In his complaint filed pursuant to 42 U.S.C § 1983, Plaintiff alleges a single

1 Fourteenth Amendment procedural due process claim against Defendant J. Turner in his  
2 individual capacity. Dkt. 6 at 4–5.

3 On January 8, 2025, the Court screened and declined to serve the complaint, finding  
4 Plaintiff failed to state a cognizable procedural due process claim against Defendant Turner. *See*  
5 Dkt. 7. The Court advised Plaintiff of his claim’s deficiencies and instructed him on how the  
6 deficiencies may be cured in an amended pleading. *Id.* at 2–6. The Court ordered that, if Plaintiff  
7 intended to proceed in this action, he must file an amended complaint curing the identified  
8 deficiencies on or before February 10, 2025. *Id.* at 5–6. The Court also informed Plaintiff that  
9 failure to file an amended complaint by the stated deadline would result in a recommendation  
10 this action be dismissed. *Id.* at 6.

11 More than two weeks have passed since the February 10, 2025 deadline to file an  
12 amended complaint expired, and Plaintiff has neither filed an amended complaint nor sought an  
13 extension of time to do so. *See docket.*

## 14 II. CONCLUSION

15 Accordingly, the undersigned recommends this action be **DISMISSED** for failure to state  
16 a claim and for failure to comply with a court order. The undersigned notes that dismissal for  
17 failure to state a claim constitutes a “strike” under 28 U.S.C. § 1915(g).

18 Objections to this Report and Recommendation, if any, should be filed with the Clerk and  
19 served upon all parties to this suit not later than **fourteen (14) days** from the date on which this  
20 Report and Recommendation is signed. Failure to file objections within the specified time may  
21 affect your right to appeal. Objections should be noted for consideration on the District Judge’s  
22 motions calendar **fourteen (14) days** from the date they are filed. Responses to objections may  
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1 be filed by **the day before the noting date**. If no timely objections are filed, the matter will be  
2 ready for consideration by the District Judge on **March 17, 2025**.

3 Dated this 28th day of February, 2025.

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6 David W. Christel  
7 United States Magistrate Judge  
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